

ORIGINAL

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S:\clients\5621\24\Affidavit of AY re Amend POC.DOC

*Attorneys for Bank of the West*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO

IN RE:

DAN L. JOHNSON

and

NANCY J. JOHNSON

Case No. 00-3091

**AFFIDAVIT OF R. ANN YBARGUEN IN  
SUPPORT OF MOTION TO ALLOW  
AMENDED PROOF OF CLAIM AND  
FOR SURRENDER OF CASH  
COLLATERAL**

STATE OF IDAHO                    )  
  : ss.:  
County of Ada                    )

I, **R. ANN YBARGUEN**, having personal knowledge of the following, and would and could competently testify thereto, do declare:

1. I am over the age of 18 years and am employed by Bank of the West, a California corporation (the "Bank"), as Vice President in the Bank's Special Assets Department. I make this affidavit in support of the Bank's Motion to Allow Amended Proof of Claim.

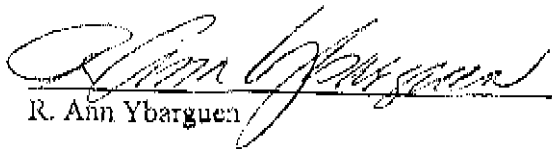
2. In connection with my responsibilities with the Bank, I am responsible for the management and collection of the Dan L. Johnson and Nancy J. Johnson (collectively "Debtors") loan file.

3. After receiving relief from the automatic stay, the Bank with the cooperation of the Debtors and the Trustee, liquidated what it thought was all of its collateral. The last proceeds from that liquidation were applied to the obligation on February 16, 2001, leaving a remaining balance of \$98,297.47. At that time, the Bank was not aware of any remaining collateral in the possession of the Debtor or the Trustee. Neither the Debtor nor the Trustee disclosed any further assets subject to the Bank's lien. The Bank was left to believe that in fact all its collateral had been liquidated.

4. Additionally, the Debtors and the Trustee represented to the Bank that there were no additional assets subject to the Bank's lien. At no time did the Debtors or the Trustee contact the Bank to correct these representations. The Bank relied on the representations of the Debtors and Trustee and discontinued its search for assets.


5. I swear under penalty of perjury under the laws of the State of Idaho and the laws of the United States that the foregoing is true and correct.

DATED this 14<sup>th</sup> day of November, 2003.

  
R. Ann Ybarguen

SUBSCRIBED AND SWORN to before me this 14 November, 2003.



  
Notary Public, State of Idaho  
Residing at: Bowling Id  
My Commission Expires: 3-12-09

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 14th day of November, 2003, a true and correct copy of the foregoing document was served on the parties in the manner set forth below:

Richard E. Crawford  
Trustee  
410 S. Orchard St.  
Boise, ID 83705

☒ U.S. Mail  
☐ By hand  
☐ Overnight  
☐ Facsimile

Dan Leroy Johnson  
3783 Vista Dr.  
Ontario, OR 97914

☒ U.S. Mail  
☐ By hand  
☐ Overnight  
☐ Facsimile

Nancy June Johnson  
3783 Vista Dr.  
Ontario, OR 97914

☒ U.S. Mail  
☐ By hand  
☐ Overnight  
☐ Facsimile

Cyrus J. Roedel  
355 W. Myrtle St., #102  
Boise, ID 83702-7607

☒ U.S. Mail  
☐ By hand  
☐ Overnight  
☐ Facsimile

Jerry V. Jensen  
P.O. Box 1906  
Twin Falls, ID 83303-1906

☒ U.S. Mail  
☐ By hand  
☐ Overnight  
☐ Facsimile

Warren S. Derbridge  
P.O. Box 32  
Boise, ID 83702-0032

☒ U.S. Mail  
☐ By hand  
☐ Overnight  
☐ Facsimile

Office of the United States Trustee  
304 North 8<sup>th</sup> Street Suite 347  
Boise, ID 83701

☒ U.S. Mail  
☐ By hand  
☐ Overnight  
☐ Facsimile

Additional Creditors Listed on Exhibit "A" hereto by first class mail, postage prepaid.

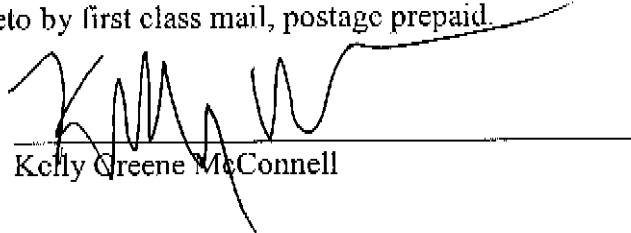
  
Kelly Greene McConnell

EXHIBIT A

Ray Belnap and Jean Belnap  
4137 Kochmeier Rd  
Vale, OR 97918

Shane Meacham  
1503 Whitley Lane  
Vale, OR 97918

Caine Veterinary Teaching Center  
University of Idaho  
1020 E Homedale Rd  
Caldwell, ID 83607

Farmers Supply CO OP  
514 SW 4th Ave  
Ontario, OR 97914

Farm Service Agency  
7620 SW Mohawk  
Tualatin, OR 97062

Discover Financial Service  
POB 8003  
Hilliard, OH 43026

Vale Veterinary Clinic  
1590 John Day Highway  
Vale, OR 97918

Malheur County Tax Collector  
251 B Street West  
Vale, OR 97918

Halpin Dairy Supply  
15 East Bowen  
Meridian, ID 83642

Malheur Federal Credit Union  
P.O. Box 520  
Ontario, OR 97914

MBNA America Bank, NA  
P.O. Box 15168  
Wilmington, DE 19850

William Johnson  
4220 331<sup>st</sup> Avenue  
Carnation, WA 98014

Chase Visa  
P.O. Box 52108  
Phoenix, AZ 85072-2108

Halpins Dairy Supply  
3783 Vista Dr  
Ontario, OR 97914

Ironhead Construction  
240 Clark Street South  
Vale, OR 97918

Treasure Valley Animal Clinic  
2075 Park Avenue  
Nyssa, OR 97913